

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

GARRY DAMON WORTHEY,)	
)	
Plaintiff,)	
)	
V.)	CIVIL ACTION NO. 2:07-cv-63-WKW
)	
DIANE HARRIS, SHERIFF, et al.,)	
)	
Defendants.)	

DEFENDANTS' ANSWER

COME NOW Diane Harris and Albert McKee, Defendants in the above-styled cause, and answer the Plaintiff's Complaint as follows:

Answer

The Defendants in this action deny each and every allegation made by the Plaintiff, Garry Damon Worthey, and demand strict proof thereof. The Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

Affirmative Defenses

1. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.
2. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff's claims.
3. The Defendants in this matter, in their official capacities, are entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.

4. Defendants in their official capacities are not “persons” under 42 U.S.C. § 1983.

5. The Plaintiff’s claims are barred by the Prison Litigation Reform Act because he has failed to exhaust available administrative remedies and because he has not suffered an injury that is greater than de minimus.

6. Plaintiff fails to allege any affirmative causal link between the alleged acts of Defendants and any alleged constitutional deprivation or Defendants’ direct participation in any alleged constitutional violation.

7. Defendants are not liable based upon *respondeat superior* theories of liability.

8. The Plaintiff cannot prove a violation of his rights under the Eighth or Fourteenth Amendments to the United States Constitution.

9. Defendants were not deliberately indifferent in any respect.

10. The Plaintiff’s claims for injunctive relief are moot, this Court lacks subject matter jurisdiction over these claims and the Plaintiff lacks standing to raise these claims.

11. Defendants reserve the right to add additional defenses upon a complete investigation of Plaintiff’s claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

Respectfully submitted on this the 26th day of April, 2007.

s/Ashley Hawkins Freeman
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CERTIFICATE OF SERVICE

I hereby certify that on this the 26th day of April, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I hereby certify that I have mailed a copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Garry Damon Worthey
AIS 248464
Fountain Correctional Facility
Fountain 3800
Atmore, AL 36503

s/**Ashley Hawkins Freeman**
OF COUNSEL